



Life Support Alliance Director Vanessa Nelson (third from left) participates in day-long discussion of corrections issues

CALIFORNIA'S PRISON SYSTEM: THE GOOD, THE BAD AND THE UGLY

Life Support Alliance (LSA) was part of a recent Sacramento conference sponsored by Capitol Weekly newspaper on the California prison system, "California's Prison System; The Good, the Bad and the Ugly."

Eighteen individuals representing a variety of corrections, crime and political viewpoints participated in a day of discussion and exchange of ideas on corrections policy, programs and effects of both. Assemblyman Roger Dickinson (D-Sacramento) offered opening remarks, with Sen. Loni Hancock (D-Oakland) providing the mid-day keynote address and Corrections Secretary Matthew Cate wrapping up the day with closing comments.

In between, representatives from private, public and governmental groups dealing with corrections participated in a succession of panels tackling realignment, the problem of corrections, reform and the politics of prisons. Participant organizations and individuals ranged from the ACLU, LSA, and the Center on Juvenile and Criminal Justice at one end to the CCPOA, Department of Corrections and Crime Victims United at the other. Each panel, discussing various aspects of the corrections problem, included a variety of viewpoints and offered a smorgasbord of opinions and recommendations.

Assemblyman Dickinson opened the day by noting that although California incarcerates more people than any state in the nation, now is the time to stop assigning blame and fear mongering. With a lowering crime rate Dickinson suggested this is a good time to take on the hard issues. Since a US Supreme Court order is now driving California's realignment project Dickinson said this is the time and realignment is the chance to take a new look at the problem of corrections, make decisions to repair people and prevent crime.

Dickinson noted it does no good to simply lock people up and expect magical change. The present system, he concluded, was “unforgivable and unsustainable.” Realignment, said the Assemblyman, is the promise of a safer California at a lower cost.

Notable comments and commenters on a panel addressing the issue of realignment were Terri McDonald; Director of Adult Operations for the CDC, Scott Brown, current lobbyist for CCPOA and Scott Jones, Sacramento County’s lately elected sheriff. Jones, a vocal opponent of realignment, decried the problems Sacramento and other counties will have dealing with the prisoners now being sent to their facilities instead of the state prison system. He complained the estimated number of prisoners counties would have to deal with was underestimated.

While the sheriff at one point admitted neither counties nor the state could “build [your] way out of” corrections problems, he none-the-less continues to campaign for more funds to expand the county jail capacity. Jones claimed there are many programs available in jail and estimated that 70% of those in Sacramento County custody had substance abuse problems.

Craig Brown, CCPOA’s chief lobbyist and presence in the Capitol took the predictable line, with a twist. Brown claimed California “got where we are today” (the controversy of realignment) because of suits by prisoner advocates and the “miserable” [sic] failure of AB900, Schwarzenegger’s attempt to build his way out of overcrowding. His characterization of AB 900 was perhaps the most accurate thing Brown said all day. He offered that overcrowding had “contributed” to sub-standard medical care for inmates

(Pardon us, Mr. Brown, but California did not “get here” today because of prisoner suits; the state got to its present sorry position in corrections because it failed to deal with problems for decades, an attitude often fuelled by the CCPOA. Overcrowding isn’t a contributor to sub-standard medical care; the US Supreme Court ruled it was the primary cause. Prisoner suits aren’t the cause of the problem, they are the remedy.)

Brown went on to decry the loss of prisoner-manned fire camps due to fewer camp-eligible prisoners (under realignment those prisoners will be held at the county, not state level), thus effectively endorsing slave labor. He predicted the failure of realignment due to lack of resources in counties. In a play to an audience that clearly was not buying into his line Brown suggested the most important thing corrections could do now would be to help with reintegration, though he offered no specifics.

The voice of reason on this panel was Terri McDonald, Director of Adult Operations at CDCR. Ms. McDonald said that while early estimates of inmate numbers going to counties may have been too low, it is too early to say whether or not those underestimates will hold true in the long term. She urged local governmental agencies to work with the CDCR in developing processes to deal with realignment and noted it was “time to stop assessing blame.” Prison, she noted is a “societal system failure.”

Among other notable comments and voices on panels throughout the day was Sahsa Abramsky, noted journalist, author and activist, who urged the conversation on corrections become a consideration of community improvement. He noted California is underinvesting in communities at every level in an effort to massively fund prisons, a process he labeled a moral disgrace. We cannot, he argued, let a series of moral lapses make our only mandate incarceration.

Perhaps Abramsky’s most urgent and on point observations came in his pointed response to Nina Salerno Ashford, of Crime Victims United. Salerno, mouthing the inflammatory and predictable line of tying all prisoners to “worst of the worst” child molesters, and claiming all three strikers have violent pasts, warned California is “willing to sacrifice a child” to cut costs.

Abramsky, chastised this sort of mindless demonizing, urging the public to stop being held hostage to fear-mongering sound bites from conservatives. David Warren, long-time prison issue advocate, had perhaps the best take on the attitude of victim’s organizations when he noted that for victims there is never enough punishment.

Sen. Loni Hancock (D-Oakland), chairman of the Senate Public Safety Committee, gave the day’s keynote address, laying out the three keys to solving California’s corrections problems (and there was no disagreement that California has major corrections problems) are realignment, rehabilitation and recidivism reduction.

Sen. Hancock noted California is currently 49th in the nation in education funding, in no small part because of the state’s failed and expensive prison system. The Senator, whose committee will consider all legislation dealing with corrections issues, said that implementation of realignment is an historic opportunity to turn corrections around, noting 19 other states had managed to lower incarceration rates without seeing an increase in crime rate.

Allen Hopper, Criminal Justice and Drug Policy Director of the American Civil Liberties Union in Northern California, called over-incarceration one of the most pressing social issues of the day and suggested possible solutions are the lowering of some crimes from the felony level, reallocation of funds and reform of pre-trial detention. Hopper and several other panel members noted up to 70% of those held in city and county jails are simply awaiting trial and have not been convicted of any crime.

David Gilliard, Republican strategist and founding member of the group that led the drive to oust Gray Davis, thus giving California Arnold Schwarzenegger, offered his considered opinion that the “mess” in corrections today is a reaction to the “liberal mess” of the 1970’s. Gilliard also opined that three strikes is “untouchable” from a political perspective. He also labeled realignment a dangerous situation for politicians but speculated that “with the right people” in office the situation may be salvageable.

Speakers from other groups including medical associations, educational groups, and those interested in realignment and prison reform offered a number of suggestions for impacting what all concerned agreed were an intolerable corrections situation. Most suggestions revolved around increased educational opportunities, vocational training and substance abuse counseling. All acknowledged these new or increased programs would require additional or re-allocated funds and would take some time to implement.

Life Support Alliance, however, was able to offer a solution for impacting both the overcrowding and cost issues; follow the law, release suitable lifers on parole at a rate reasonably approaching the numbers suggested by existing law. As we noted to the assemblage, paroling lifers would decrease the prison population, save a few million dollars, and can be done immediately.

The closing panel of the day’s discussions featured something of a ghost of Christmas past, Don Novey, architect of the modern-day CCPOA, long-time lobbyist and power broker for the union and erst-while godfather of victims’ rights organizations. Novey, now aging, out of favor with the union and largely irrelevant, contributed few ideas or suggestions beyond reminiscences of past glories and the old days, interspersed with name dropping of past movers and shakers.

He took the opportunity to slam former governor Schwarzenegger at every chance and, with a straight face, maintained the CCPOA was always concerned with the level of health care provided to prisoners, which he characterized as “never good.” Sorry Novey, your amends are too little, too late.

Department of Corrections Secretary Matthew Cate closed the day’s discussions with an endorsement of the realignment plan and a reaffirmation that this is the time for change. Cate echoed CDC’s Terri McDonald’s comments earlier in the day that the implementation of these change will not be without difficulty but is necessary and attainable.

WE NEED YOUR INPUT

Life Support Alliance continues to seek information from prisoners who have undergone psychological evaluations by member of the Forensic Assessment Division and those who have hearings chaired by new BPH Commissioners. While individual prisoners may have inept and unethical experiences with some psychologists associated with the FAD, it is only when these individual experiences can be collected and presented as a pattern that the best use can be made of the FAD’s improprieties. We also would like reports from lifers, including those found suitable, regarding their parole hearings before various commissioners, especially those appointed in the last six months who have not yet been confirmed by the Senate.

These commissioners are newly appointed and have yet to be confirmed: Dan Figueroa, Cynthia Fritz, Howard Mosley, Terri Turner, and Gilbert Robles. Commissioners Jack Garner, John Peck and Michael Prizmich were recently re-appointed and will also sit for confirmation hearings, as will BPH Executive Director Jennifer Shaffer. At present indications are that confirmation hearings will be held by the Senate Rules Committee in April. LSA will submit written positions and expect to speak either in favor or opposition to the candidates at the hearings.

We have survey forms for both lifer parole experiences and psychological evaluations available, or just write us with your experiences, please include as much detail as possible, including names of parole commissioners and psychologists involved. Requests for survey forms or information on parole hearings and psychological evaluations should be sent to LSA, PO Box 3103, Rancho Cordova, Ca. 95741, or families may email same to: lifesupportalliance@gmail.com.

UNOFFICIAL TRANSCRIPT OF PAROLE HEARING FOR INMATE S. CLAUS, CDCR NUMBER X 01225

We offer the following purely imaginative, but based on facts, hearing for the bemusement of our readers. Those who have witnessed or experienced a parole hearing will understand. Creative license fully in play. Happy Holidays to all, stay well, stay safe.



This is the umpteenth parole hearing for Inmate Santa Claus, CDCR number X01225. The hearing is being conducted by Commissioner E. Scrooge and Deputy Commissioner T. Grinch.

Inmate Claus was received into the California state prison system under habitual offender guidelines on two million counts of breaking and entering over a multi-year period. Today we will be discussing the crime, the prisoner's insight and remorse, institutional and disciplinary history and psychological evaluation.

Inmate Claus confessed to repeatedly entering homes during early morning hours. He has continually minimized his involvement in this crime by saying he was leaving gifts, not taking anything from the victims. He did, however, admit to eating milk and cookies in each home. He expresses no remorse.

His psychological evaluation, performed by Dr. A. Sham, of the BPH Forensic Assessment Division, notes shallow affect and overly-friendly presentation. Dr. Sham continues he cannot comment on the inmate's early life as the inmate claims not to remember those years. This has lead Dr. Sham to diagnose Claus as having an unstable social history and anti-social personality disorder.

Dr. Sham's report continues that the inmate claims to have had no sexual partners but seems overly consumed with prurient interests, prefacing nearly every statement with "Ho Ho Ho," which Dr. Sham concludes is an obsessive anti-social reference to females. He also notes Inmate Claus has an unusual interest in and knowledge of individuals of abnormally small stature, which Dr. Sham concludes may be a repressed sexual deviancy. He is also concerned with the inmate's self-confessed habit of having children sit on his lap.

The FAD evaluation concludes Inmate Claus lacks insight, has possible homosexual tendencies and an expressed desire to make everyone happy, which Sham concludes, makes Claus clearly an unreasonable risk to society if released.

The inmate's institutional history reflects possible gang affiliation. We note the inmate has an AKA of "St. Nick," and has confessed to habitual association with a group of aberrant individuals who dress in specific colors (red and green), wear unusual and conspicuous items of apparel (curled toe shoes and bells), use jargon such as "Merry Christmas to all and to all a goodnight," and call themselves "The Elves." Claus also has numerous 115s for over-familiarity with staff, which he minimizes as being nice, not naughty.

The inmate also has inadequate and unrealistic parole plans, stating he will live at the North Pole and find employment driving a sleigh. This appears to be seasonal work at best. Claus also describes his potential residence as having plenty of snow, which, if true, could result in drug addiction.

We therefore deny parole to Inmate Santa Claus, finding his crime to be heinous and callous, noting his lack of insight and remorse and unstable social history make him an unreasonable danger to society. Parole is denied for 15 years, during which time we suggest the inmate upgrade professionally, seek positive chronos and generally get a life.

LATEST ON THE FAD FIASCO

As noted in the October issue of *Lifer-Line* the OAL approval of a revised 2240 dealing with psychological evaluations, issued on Oct.27, was a very short 2 paragraph notice, but there are a couple of details that bear looking into. First the approval notification states the new 2240 regulation will take effect on Nov. 24, 2011. It also states the regulation "...provides for the transition from previously prepared Psychological Reports that have been used for a similar purpose to the new assessments through the year 2011."

According to a Senior Counsel at OAL, any actions regarding matters covered by 2240 that were taken prior to the legal enactment of 2240 (Nov. 24, 2011) would "come under provisions of the old law." We asked if that meant psych evals done by the FAD prior to 11/24 were not valid and his round about response was that OAL was not a litigation body, but that 11/24/11 is the date on which the FAD/2240 becomes legal. He also affirmed that any action found to be an underground regulation would remain underground until the APA process had been completed and approved.

What happens at the end of 2011--do the provisions of 2240 continue? The OAL counsel had the same 'we're not a litigation body' answer, but he was clearly perplexed by the "through the year 2011" notation. Other information indicates the notation on the approval for 2240 be used "through the year 2011" may have been an error and could be interpreted to mean the provision ends on Dec. 31 and that any actions taken before Nov. 24 could arguably be considered illegal.

When asked how these issues could be resolved the OAL counsel suggested litigation was the answer. Given that no accommodation was offered by the BPH to the objections raised by participants regarding the board's mischaracterization (in the kindest terms) of their participation in the 2006 meeting the board gives as the basis for 2240 and given that the board did not address several other inaccuracies (lies, really, but we're being kind here) in the Revised Final Statement of Reasons, the OAL's approval, to say nothing of 2240 itself, may be legally flawed.

In a related development, LSA has learned that, largely due to our whistleblowing on this issue, the Senate Office of Research has been asked by a senate office to examine the FAD, the appropriateness of the tests used and the veracity of the BPH's statements about the creation of the FAD. That in-depth look at the FAD mess has reportedly been completed and a confidential report submitted to the Senate. We will be following up on this development and continue to urge the legislature to act on this issue and the issues of BPH truthfulness and transparency.

While we at LSA are not attorneys and cannot and do not offer legal advice we feel all interested parties should be aware of these developments, and may wish to consider discussing them with their individual legal counsel. LSA is consulting with a variety of attorneys familiar with the 2240 situation and lifer issues with an eye to undertaking a legal challenge to 2240 on both legal and procedural grounds.

THANKS AGAIN..

To the men on 5 (now Echo) Yard at Avenal Prison, who continue to provide much appreciated and helpful support to LSA through the donations of stamps and monetary donations. Your generosity aids not only LSA but many of your fellow lifers, enabling us to continue mailing the newsletter to some of the 300 prisoners on our mailing list and helps fund our travels to observe parole hearings.

We will keep working and hope to see many of you home soon.

REVIEWING ACTIONS OF COMMISSIONERS, DEPUTY COMMISSIONERS AND PSYCHOLOGISTS

This is an anonymous questionnaire. It is not necessary to disclose the name or CDC number of the prisoner who appeared before the parole board. If you wish to reveal that information it will be kept confidential.

LSA will use information on the performance of commissioners and hearing outcomes to decide our position in support or opposition to various commissioners during confirmation hearings and in other evaluations of BPH practices.

Detail provided such as reasons for denial, comments/statements of the board will point us toward specific problems and when these problems are often found in numerous transcripts it exhibits a pattern of improper decisions which can be highlighted at confirmation hearings and other actions. This same procedure can be used for psychologists preparing the pre-hearing evaluations.

Please provide as much detail as possible, use additional sheets of paper if desired. We will fight this battle on behalf of all lifers, but you must give us the tools to do so. **Mail to Life Support Alliance, PO Box 3103 Rancho Cordova, Ca. 95741.**

NAME (optional) _____ CDC(optional) _____

DATE OF HEARING* _____ INSTITUTION* _____ SENTENCE _____

MEPD__ -COMMISSIONER/DEPUTYCOMMISSIONER* _____

OUTCOME* _____ LENGTH OF DENIAL* _____ INITIAL/SUBSEQUENT _____

REASONS FOR DENIAL* _____

EVER BEEN FOUND SUITABLE/WHEN* _____ REASONS PREVIOUS DENIAL _____

STATE/PRIVATE ATTORNEY _____ ATTORNEY NAME _____

DATE OF PSYCH EVAL.* _____ RISK LEVEL* _____ PSYCH NAME* _____

COURT ORDERED TO BOARD FOR DATE?

RISK ASSESSMENT CHANGED FROM PREVIOUS HEARING _____ PREVIOUS RATING _____

IMPROPER/INCORRECT COMMENTS BY BPH OFFICIALS(EXAMPLES)

COMMENTS/QUESTIONS BY PSYCHOLOGIST YOU FEEL WERE NOT RELEVANT(EXAMPLES)